

1 our report," we didn't know that they got a
2 report.

3 Q. Or that they needed a report?

4 A. That's correct. I guess we thought
5 that mysteriously they were figuring it out on
6 their own or something. Not really knowing the
7 industry, it just didn't occur. But we were
8 supposed to be sending --

9 Q. So this is one of the great mysteries
10 of life, every once in a while, the right hand of
11 a governmental agency will communicate with the
12 left hand?

13 A. Yes.

14 Q. The next document I'm going to show
15 you has a Bate Stamp Numbers 01133. And it's
16 dated 11 May '98. First of all, have you ever
17 seen the document before?

18 A. I don't recall it, but if it's written
19 to me --

20 Q. How would you be able to tell that
21 it's written to you?

1 A. It's addressed to VP Establishment,
2 which was me.

3 Q. That was your title at the time?

4 A. Uh-huh.

5 Q. So in all likelihood, you would have
6 received this document?

7 A. Yes.

8 Q. What is the document informing you
9 about?

10 A. It looks like it's requesting specific
11 numbering on a contract. I think based on the
12 date, this would be the timing for the young lady
13 that we set up externally in business to do
14 verifications. We faxed orders to her. I was
15 probably working on the contract. And he wanted
16 specific language in about us having permission
17 to request that she get rid of people who weren't
18 doing their job. That's what it looks like, but
19 I don't specifically recall.

20 Q. But you have some recollection of
21 being involved with a contract of some kind with

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1 a verification company?

2 A. Typically, any contract we did after
3 '98 or during '98 and after, I would rough draft
4 at the minimum, give it to Kurtis or Keanan,
5 whoever requested it. They would red-pen it.
6 And then I would finalize it. And then it would
7 be used for whatever purpose.

8 Q. Your recollection, though, is that
9 there was a written contract between Business
10 Options or U.S. Bell and a verification company?

11 A. I don't actually recall specifically,
12 but we did contracts with everybody.

13 Q. By doing contracts, you're referring
14 to written contracts?

15 A. Yes.

16 Q. As opposed to oral contracts?

17 A. Uh-huh. Always a written agreement.

18 Q. We're fast-forwarding more than a year
19 here, so keep that in mind when you look through
20 this. This document bears a date of 9-22-99.
21 And if you could just glance through it. Bate

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1 Stamp Numbers 00866 and 00867.

2 A. This looks familiar.

3 Q. First of all, is this a document that
4 you prepared?

5 A. Yes.

6 Q. And we can tell that because?

7 A. Whenever you prepared a document, you
8 wrote who it was to and then a line and who it's
9 from. And my title changed from VP establishment
10 to VP administration at some point.

11 Q. So sometime between May of 1998 and
12 September of 1999, your title changed?

13 A. Yes. I didn't change positions, just
14 the name of the title.

15 Q. And in terms of EC members, that would
16 be the executive council?

17 A. Uh-huh.

18 Q. And in September of 1999, who would
19 that have been?

20 A. Sherry -- not Sherry, but Kim
21 Perfetti, George Vasquez, Kurtis, Keanan and

1 myself. Possibly other people here and there,
2 but that was the core group.

3 Q. And other than Kurtis and Keanan, what
4 were the other persons involvement or
5 responsibility at that time?

6 A. George's title was vice-president of
7 operations and he ran our treasury and quality
8 control in our delivery areas. And Kim was
9 vice-president of sales.

10 Q. And Kurtis was always the head person?

11 A. Kurtis was always in charge and Keanan
12 was typically the president or the second.

13 Q. This mentions U.S. Bell. Am I to take
14 it from the date of the document and the mention
15 of U.S. Bell, that U.S. Bell has or has not come
16 into existence at this point?

17 A. Looking by what it says, that it
18 hasn't yet. But I'm not positive on the date.
19 What we did is, Kurtis and Keanan came up with a
20 name that we thought would be more
21 telecommunications familiar to customers. And I

1 did some research, just kind of internet research
2 looking for the name. And we had a girl who was
3 working for us who was going to school to be a
4 lawyer at Valparaiso University. And she did a
5 little research also. We found out later that
6 that wasn't enough research, but that's how we
7 researched the name. And we felt that it was
8 clear enough that we could use it at the time.

9 Q. What name was being used at that time?

10 A. Business Options.

11 Q. And what was the problem using the
12 name Business Options?

13 A. What we were running into was our
14 sales people calling and saying, "Hi, I'm
15 so-and-so from Business Options." And they'd
16 say, "This is a residence, not a business." And
17 then they'd have to explain, "Well, that's just
18 the name of the telephone service." "Well, but
19 I'm not a business." Most of people that they
20 were talking to just thought it was the name of a
21 loan company or a company that only serves

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1 businesses or what have you. But they did get
2 out of that name long distance company or
3 telephone company or whatever.

4 We went through probably 100 names
5 just trying to get something that sounded like
6 when you call and say, "I'm so-and-so from this
7 company," it sounded like a long distance
8 company. So that's why we went with U.S. Bell.

9 Q. So did there come a time when the
10 sales script changed in order to reflect a change
11 from Business Options to you U.S. Bell?

12 A. I don't think it did. Because shortly
13 after we became U.S. Bell, we got a got call from
14 Southwestern Bell. And they didn't have a very
15 keen appreciation for us using the Bell name. So
16 I was in the midst of getting U.S. Bell licensed
17 and we stopped it. We used U.S. Bell as the
18 company name, but we maintained the Business
19 Options' service. So I don't remember if the
20 script changed or not. It may have changed to
21 "I'm calling from U.S. Bell, we're interested in

1 providing you with Business Options' long
2 distance service." I don't specifically
3 remember.

4 Q. And even if that occurred, it was
5 probably short-lived because of the objections
6 that you received?

7 A. Yes. We had to figure out another
8 name after that. If memory serves, what we did
9 is switched to U.S. Bell as a corporate name like
10 on the first of the next year. It was licensed
11 just as a company corporation.

12 Q. Again, when you're talking about
13 licensing, you're talking about a number of
14 steps. One, being first getting it incorporated.
15 Second, being authorized to do business in a
16 particular state?

17 A. Uh-huh. And U.S. Bell, getting
18 incorporated and licensed to do business in
19 Indiana. We began the process of getting
20 licensed as a long distance carrier, but that was
21 cut short.

1 Q. Were you aware that tax returns for
2 the period after U.S. Bell came into existence
3 reflected that the majority, if not the entirety,
4 of the income that was generated as a consequence
5 of selling Business Options' product was reported
6 as income for U.S. Bell?

7 A. No.

8 Q. You were never aware of that?

9 A. I was aware of that later, but not at
10 that time. I started looking over tax returns
11 and that kind of thing sometime in late 2001.
12 And that's when I figured that out.

13 Q. And how was it that you came to look
14 the at those returns?

15 A. When we started having Furmankiewicz &
16 Associates do our tax returns for us. And when
17 that started, shortly after, they wanted someone
18 in the company to take a look at them before they
19 went out. And when that was instituted, I was
20 the person who started looking at them.

21 Keanan was serving that purpose

1 beforehand. And Keanan became ill and was no
2 longer available to do it. He was out of the
3 office for a long period of time, as much as a
4 year. And then when he came back, he was part
5 time. Even until I left, he was still part time.
6 So somebody had to do it. And Kurtis's schedule
7 was irregular, so they had me do it.

8 Q. I take it there did come a point in
9 time when you noted that tax returns for U.S.
10 Bell reflected sizable amounts of income?

11 A. Yes. I'm sure that I did.

12 Q. Did you ask any questions of anybody
13 as to why U.S. Bell was reporting that kind of
14 income?

15 A. I think that I asked accountants what
16 the difference was. And they kind of said,
17 "Well, this is the way we need to do it." And I
18 accepted that. Not really knowing -- the way the
19 corporation was set up, what I always said was
20 that if we're starting a new corporation, they
21 should be completely different than the old

1 corporation. And they said, "No. You can't do
2 that." And I don't really know enough to
3 disagree with them.

4 Q. And in terms of who you were talking
5 with, was it anybody other than Alan
6 Furmankiewicz?

7 A. With Alan or his assistant, I don't
8 remember his name. One of those two guys.

9 Q. Whoever the assistant was?

10 MR. HAWA: G?

11 A. Yes. It was probably G.

12 Q. The mysterious G.

13 A. I just don't remember his name. But
14 it was one of those guys. Having Avatar and four
15 or five other companies, it was enough for me
16 just to try to keep it straight the way it was.
17 To try to delve into the accounting of it was
18 really going to be beyond me. So I didn't have
19 any desire to do that.

20 Q. It could have been so much fun.

21 A. It would have been really confusing

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1 for me. Because I believe that the way it was
2 set up, that's where the money went. Like when
3 we would get income, it would go into the U.S.
4 Bell account or something like that.

5 Q. Even though on a customer's telephone
6 bill, it would reflect that he or she was paying
7 for Business Options' service?

8 A. Uh-huh.

9 Q. And did that seem odd to you that the
10 company would bill in the name of Business
11 Options, but the income would be reported as U.S.
12 Bell?

13 A. The way it was explained to me is that
14 U.S. Bell was set up to use Business Options'
15 tariffs and licenses. As if they -- like they
16 licensed a patent, something of that nature.

17 Q. Who provided that explanation?

18 A. I don't remember. It might have been
19 Al or whoever his name was. I don't remember
20 that.

21 Q. I want to show you a document that, by

1 enlarge, appears to be undated. It's Bate
2 Stamped pages 01096 through 01099. I'd just ask
3 you to glance through it.

4 A. It looks familiar.

5 Q. Is it a document that you prepared?

6 A. Yes.

7 Q. What is it?

8 A. A program is basically a list of steps
9 to accomplish a goal. And this was steps to
10 eliminate these companies, basically, and do a
11 complete change over to -- it looks like my
12 intention was to U.S. Bell.

13 Q. When you say "eliminate these
14 companies," what are you referring to?

15 A. Business Options, Crusade
16 Communications and Super Comm. Basically, the
17 purpose was to close those companies. And
18 everything within our corporate entity become --
19 it looks like Avatar is on here, I don't think I
20 wrote that there.

21 Q. Do you recognize any of the

1 handwriting that appears?

2 A. Yes. It's Keanan's handwriting. The
3 "dones" that are written in are Keanan's
4 handwriting. It doesn't look like I -- all the
5 handwriting that's written in is Keanan's. It
6 looks like I prepared it and submitted it. And
7 then he worked through it. And he made some
8 changes, handwritten changes. We did that on a
9 regular basis for -- any time we were trying to
10 reach a goal or complete a task that was more
11 than one thing to do to complete the task, we
12 would run out of programs. So we had things
13 listed out. That way, you could also give other
14 people responsibility for certain aspects.

15 Q. So on the first page, 01096 underneath
16 topic number one where it says "Complete
17 Dissolution of Indiana Incorporated Crusade
18 Communications," there's some handwriting
19 underneath it. And it looks like "one and a
20 half." And then it has "Avatar Ent. Inc.," I
21 take it that refers to Avatar Enterprises Inc.

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1 And it has "done." And it's underlined. And
2 there's a date, it looks like 10-14. And there
3 are -- it looks like COO.

4 A. Chief operating officer.

5 Q. Which was?

6 A. Keanan.

7 Q. So Avatar Enterprises came to be at
8 about sometime in October or around October of
9 1999?

10 A. To be honest with you, I don't
11 remember because I wasn't involved in that. I
12 don't know if it was '99 or 2000.

13 Q. What was the point of having Avatar?

14 A. As I recall, Avatar was just to be the
15 parent company of all of the others. And it was
16 a company from which -- the goal of Kurtis and
17 Keanan was to open many companies and to have
18 each one doing a different -- just a different
19 business maybe. To have one long distance
20 company and one company that was selling
21 something else and something else and something

1 else. All these companies would fall under the
2 Avatar umbrella.

3 Q. This is a document that has a date of
4 2-29-00. And first question is, do you recognize
5 the document?

6 A. I don't specifically recall it, but it
7 looks like something I would have written.

8 Q. I hadn't mentioned this before, it's
9 Bate Stamped number 00880. And so in terms of
10 your authorship, that would be determined by --
11 in the upper left-hand corner underneath the --
12 underneath the underline where it appears "VPA"?

13 A. Yes.

14 Q. That would ordinarily be you --

15 A. Yes.

16 Q. -- at this point in time?

17 A. Uh-huh.

18 Q. The DIR I&R above the underline, I
19 think you explained before what that represented.
20 But if you could --

21 A. Director of inspections and reports.

1 The purpose behind such, being, that person
2 receives reports like this and investigates it
3 and finds out why the problem occurred. And that
4 person is also responsible for going around and
5 inspecting the company. Also people that sit
6 down with you and say, "Okay. Tell me what your
7 job is. Tell me how you do it." If you don't
8 understand that, then you need further training
9 in your job.

10 Q. And basically, the report suggests --
11 to me, at least -- that there was some problem
12 locating a particular verification tape?

13 A. Yes.

14 Q. At about this point in time, why would
15 that be of any significance?

16 A. Whenever we would receive a complaint,
17 we would send a copy of the verification to the
18 PUC just to show them that the person was sold
19 and the -- it was verified on tape, as it was the
20 law to do so. And we purposely sent the tape off
21 with every complaint just to show them that we

1 had it basically. This was still at the time
2 when documentation was a pain and was hard to
3 find. What you had to do is, we had a big
4 binder. And you'd go in and look for the date on
5 the binder. And then you might have to listen to
6 six tapes to find a verification.

7 So if they were off by one number, you
8 might have to listen to 18 tapes to get to one
9 verification. That's very time-consuming. And
10 that would make me very unhappy. The next thing
11 to do would be to write it up and make sure that
12 the people who were listing out the numbers would
13 do it correctly so you would have a better shot
14 at getting at what you want.

15 Q. So with respect to a tape, am I to
16 understand that at about this point in time,
17 February of the year 2000, there might be more
18 than one customer on a particular tape?

19 A. Oh, yes. They would run the tape.
20 You know, they were 60 or 90-minute tapes. And
21 there could be 20 on one tape. So they were --

1 what they were supposed to do is, on an order,
2 identify the exact tape number and side. But if
3 they did not do that correctly, first of all,
4 you're looking through several hundred orders to
5 find that number. If it's not done correctly,
6 then it was very difficult to find anything. And
7 we just did not want to send off a complaint
8 without that tape. We didn't have to. We wanted
9 to show the PUC that we've got this tape and this
10 person was verified.

11 Q. Basically, am I to take it that you,
12 at least, understood that the company Business
13 Options was dead in the water, if you will, if
14 there was a PUC complaint relative to a
15 particular person and Business Options couldn't
16 locate a verification tape for that person?

17 A. There's no question in mind that we
18 were issuing a full refund for that. And that's
19 basically what we would do. If we couldn't find
20 it, we'd send a letter to the PUC that said we
21 can't locate the tape. And naturally, they would

1 send a letter back that said we needed to issue a
2 full refund. And that's what we did. It's a
3 time-consuming issue just to do the tape
4 correctly. To get it taped, to get it
5 documented. And then, you know, just the fact
6 that knowing that it's somewhere in this room and
7 I can't find it, makes it that much worse. I
8 just felt like that it was pretty major.

9 Q. And as a consequence of this document,
10 do you know what happened?

11 A. More than likely, either myself or
12 another manager just went in there and ensured
13 that they were documented correctly. But it was
14 never completely correct. It got better and
15 better and better, but I don't think it's ever a
16 perfect system unless you're doing it digitally.
17 And that was always my request that we do it
18 digitally. And that way everything was
19 time-stamped and you could find it fairly easy.
20 But that was a pretty expensive purchase of
21 equipment to do so.

1 Q. What technology was used at this
2 point?

3 A. Just tape recorders with -- tape
4 recorders that were plugged into the phone so
5 they would record.

6 Q. So then there would be cassettes?

7 A. Yes. They were using cassettes and
8 they would have a log in front of them. And they
9 would write down the customer name and the
10 cassette number. And that information would be
11 logged into the -- not at this point, but after a
12 certain date, it was logged into our computer
13 system. So you could look up somebody in the
14 database and see the date number and the
15 information.

16 Q. And at least when you left, the
17 cassette tapes were still being used?

18 A. Yes.

19 Q. Here's a document dated March 18,
20 2000. So it follows the document we just looked
21 at by less than three weeks. And I'd ask you to

1 look this over. It has Bate number 00878. Do
2 you recognize this document?

3 A. No.

4 Q. In terms of who it is addressed to,
5 the VPA would be you?

6 A. Yes.

7 Q. The COO would be who?

8 A. Keanan.

9 Q. And in terms of the cc's, who were the
10 cc's?

11 A. CEO is Kurtis. VPO would have been
12 George Vasquez.

13 Q. What is it that Keanan was either
14 asking or ordering here?

15 A. We had, for some time, stored tapes in
16 boxes if they got too old instead of keeping them
17 out and visible. He wanted them out so you could
18 walk up to a rack and pick a tape off instead of
19 digging through boxes.

20 Q. Do you know whether or not whatever it
21 was that he requested here was done?

1 A. I know it was done because we bought a
2 new set of racks that all the tapes could fit on.
3 I don't know if it was done in response to this
4 specific order, but I know that it did happen.

5 Q. In terms of a time frame, roughly
6 when?

7 A. I don't know, to be honest.

8 Q. But it occurred at some point under
9 your direction?

10 A. Yes. We may have -- yes. It did
11 occur, I know that. We had all the tapes out.

12 Q. The next document I'm showing you is
13 Bate Stamped 00858. And it bears a date of
14 6-23-00. Do you recognize the document?

15 A. Yes.

16 Q. It was generated by yourself?

17 A. Yes.

18 Q. And that's reflected in two places, in
19 the upper left-hand corner where -- under the
20 underline, there appears VPA, that would be you?

21 A. Yes.

1 Q. And then where it says "Thanks, Bill,"
2 that would also be you?

3 A. Un-huh.

4 Q. And you're sending this to the CEO,
5 which is Kurtis?

6 A. Yes.

7 Q. What is it that you're telling Kurtis
8 here?

9 A. The situation that we had is, using a
10 billing clearinghouse, we had customers that
11 could not be billed by a clearinghouse because
12 they didn't have contracts with local carriers or
13 what have you. There was always a percentage of
14 customers that they just could not bill for us.
15 So the thought we had was that any customer that
16 came up with a certain code, we would bill by
17 direct bill instead of having the clearinghouse
18 do it.

19 But when we did so, there were certain
20 customers that we just were not billing because
21 either we had trouble in the state they lived in

1 or what have you. The direct bill was done
2 without my input. And what happened was, they
3 generated bills for a bunch of customers that we
4 weren't supposed to bill.

5 So this was my note telling Kurtis
6 that we had to stop billing them period.

7 Alabama was one of the states where we
8 had some trouble and we withdrew. We had
9 customers on-line that were getting service that
10 we hadn't handled. We should have sent them a
11 letter telling them to move to a new carrier, we
12 hadn't done it yet. Mississippi is a state where
13 we were banned from selling new customers, but we
14 were okay to bill. And South Dakota was a state
15 where we had a few customers. And as I'm sure
16 you're more aware than I am, they have a big fine
17 if you're found guilty of slamming there, \$1,000
18 a customer. I didn't want to pay any \$1,000
19 fines, so we stopped billing them and we asked
20 them to get off the service.

21 This is a letter telling Kurtis that